

**RE: [EXTERNAL] Exhibits in support of motion to be filed on public docket**

**From:** Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>  
**To:** 'Rob Rickner' <[rob@ricknerpllc.com](mailto:rob@ricknerpllc.com)>, Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>, mikespieg <[mikespieg@aol.com](mailto:mikespieg@aol.com)>  
**Cc:** [sierrateam@moskovitzlaw.com](mailto:sierrateam@moskovitzlaw.com) <[sierrateam@moskovitzlaw.com](mailto:sierrateam@moskovitzlaw.com)>, NYC Law Protest Team <[NYCLawProtestTeam@law.nyc.gov](mailto:NYCLawProtestTeam@law.nyc.gov)>  
**Subject:** RE: [EXTERNAL] Exhibits in support of motion to be filed on public docket  
**Date:** Monday, July 11, 2022 6:01 PM  
**Size:** 76 KB

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Rob,

Defendants object to plaintiffs filing the Terence Monahan CCRB testimony on the public docket.  
Defendants will not object to plaintiffs filing the other below-referenced exhibits on the public docket.

Yours,

Daniel M. Braun  
Senior Counsel  
Special Federal Litigation Division  
Office of the Corporation Counsel  
100 Church Street  
New York, NY 10007  
[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)  
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**From:** Rob Rickner <[rob@ricknerpllc.com](mailto:rob@ricknerpllc.com)>  
**Sent:** Friday, July 8, 2022 3:53 PM  
**To:** Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; mikespieg <[mikespieg@aol.com](mailto:mikespieg@aol.com)>  
**Cc:** [sierrateam@moskovitzlaw.com](mailto:sierrateam@moskovitzlaw.com); NYC Law Protest Team <[NYCLawProtestTeam@law.nyc.gov](mailto:NYCLawProtestTeam@law.nyc.gov)>  
**Subject:** Re: [EXTERNAL] Exhibits in support of motion to be filed on public docket

Jenny,

We can wait until Monday to hear from you. No problem.

Rob Rickner

--

Rob Rickner (he/him)  
[rob@ricknerpllc.com](mailto:rob@ricknerpllc.com)  
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On Fri, Jul 8, 2022, at 3:30 PM, Weng, Jenny (Law) wrote:

Hi Rob,

Since the correct link to the audio was only sent to us last night, we haven't had a chance to review it and Dan is out of office today. Please give us the opportunity to review it and get back to you.

Get [Outlook for iOS](#)

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**From:** Rob Rickner <[rob@ricknerpllc.com](mailto:rob@ricknerpllc.com)>

**Sent:** Friday, July 8, 2022 12:41:55 PM

**To:** Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; mikespieg <[mikespieg@aol.com](mailto:mikespieg@aol.com)>

**Cc:** [sierrateam@moskovitzlaw.com](mailto:sierrateam@moskovitzlaw.com) <[sierrateam@moskovitzlaw.com](mailto:sierrateam@moskovitzlaw.com)>; NYC Law Protest Team <[NYCLawProtestTeam@law.nyc.gov](mailto:NYCLawProtestTeam@law.nyc.gov)>

**Subject:** Re: [EXTERNAL] Exhibits in support of motion to be filed on public docket

Daniel,

The only question is whether the materials fall into the narrow exception to the presumption of public access outlined by the Second Circuit in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110 (2d. Cir. 2006). Either you object to filing the exhibits on the public docket, in which case we will file our motion under seal and Judge McMahon will determine the matter; or you don't object, and we will file on the public docket. If you persist in not saying one or the other, we will file under seal and explain why we are doing so.

The basis for our motion to amend will be outlined in our memorandum of law.

Rob Rickner

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Rob Rickner (he/him)  
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On Thu, Jul 7, 2022, at 6:36 PM, Braun, Daniel (Law) wrote:

Mike and Rob,

Thank you for sending corrected Bates numbers yesterday. We are reviewing them and the Bates number you provided for the Terence Monahan CCRB testimony yesterday appeared incorrect. Rob, thank you for just sending the below, so that we can properly consider your request.

Additionally, in order to properly consider your request, could you please share with us why plaintiffs are seeking to amend their complaint, as well as why plaintiffs believe it's necessary to annex the materials you listed and file them on the public docket?

Please note that I will be out of the office tomorrow but will back on Monday and able to reply following my return.

Daniel M. Braun  
Senior Counsel  
Special Federal Litigation Division  
Office of the Corporation Counsel  
100 Church Street  
New York, NY 10007  
[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)  
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**From:** Rob Rickner <[rob@ricknerpllc.com](mailto:rob@ricknerpllc.com)>  
**Sent:** Thursday, July 7, 2022 6:11 PM  
**To:** mikespieg <[mikespieg@aol.com](mailto:mikespieg@aol.com)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>  
**Cc:** [sierrateam@moskovitzlaw.com](mailto:sierrateam@moskovitzlaw.com); NYC Law Protest Team <[NYCLawProtestTeam@law.nyc.gov](mailto:NYCLawProtestTeam@law.nyc.gov)>  
**Subject:** Re: [EXTERNAL] Exhibits in support of motion to be filed on public docket

Daniel,

To avoid any confusion, here is a link to the exhibits themselves: <https://web.tresorit.com/l/4cZPC#4zyX06iNU3CgIFQs78DSQg>

Rob Rickner

--

Rob Rickner (he/him)  
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On Wed, Jul 6, 2022, at 8:26 AM, [mikespieg@aol.com](mailto:mikespieg@aol.com) wrote:

Daniel,

Here are alternative Bates numbers for the four exhibits:

June 4, 2020, Mott Haven Radio transmissions: Def\_CCRB\_00031093

P.O. Antony Stevens June 4, 2020 BWC video: DEF\_000321203

TARU video at Mott Haven: DEF\_000260722

Terence Monahan CCRB testimony: Def\_CCRB\_00034802

Please confirm that you are able to locate these with these Bates numbers.

Michael L Spiegel, Esq  
48 Wall Street, Suite 1100  
New York, NY 10005  
(212)587-8558  
[mikespieg@aol.com](mailto:mikespieg@aol.com)

-----Original Message-----

From: Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>

To: 'mikespieg@aol.com' <[mikespieg@aol.com](mailto:mikespieg@aol.com)>

Cc: [sierrateam@moskovitzlaw.com](mailto:sierrateam@moskovitzlaw.com) <[sierrateam@moskovitzlaw.com](mailto:sierrateam@moskovitzlaw.com)>; NYC Law Protest Team  
<[NYCLawProtestTeam@law.nyc.gov](mailto:NYCLawProtestTeam@law.nyc.gov)>

Sent: Fri, Jul 1, 2022 5:17 pm

Subject: RE: [EXTERNAL] Exhibits in support of motion to be filed on public docket

Michael,

Defendants are considering your request, however, it appears that the following Bates numbers that you provided are incorrect:

June 4, 2020, Mott Haven Radio transmissions:

Def\_CCRB\_00031093\_202004094\_Audio\_202004094\_20200701\_1239\_IA

P.O. Antony Stevens June 4, 2020 BWC video: DEF\_CCRB\_00034063

TARU video at Mott Haven: NYPD\_N\_00001679

Terence Monahan CCRB testimony:

Def\_CCRB\_00034802\_202004402\_Interview\_202004402\_20210319\_1514.wav

Please send us the correct Bates numbers so that defendants can properly consider your request, and defendants will in turn respond accordingly next week.

Thank you and have a pleasant holiday weekend,

Daniel M. Braun

Senior Counsel

Special Federal Litigation Division

Office of the Corporation Counsel

100 Church Street

New York, NY 10007

[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)

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**From:** [mikespieg@aol.com](mailto:mikespieg@aol.com) <[mikespieg@aol.com](mailto:mikespieg@aol.com)>

**Sent:** Wednesday, June 29, 2022 9:43 AM

**To:** Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>; Nelson, Genevieve (Law)

<[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy

(LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; [sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov); Ibrahim, Nadine (LAW)

<[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Hamill, Bridget (LAW)

<[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Vecchiarelli, Giancarlo (LAW) <[GVecchi@law.nyc.gov](mailto:GVecchi@law.nyc.gov)>

**Cc:** [sierrateam@moskovitzlaw.com](mailto:sierrateam@moskovitzlaw.com)

**Subject:** [EXTERNAL] Exhibits in support of motion to be filed on public docket

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Counsel,

As you know, we are moving for leave to amend the complaint and intend to submit the below-listed exhibits in support of our motion. Does the City object to plaintiffs filing these exhibits on the public docket?

Please consider Section VI of the Individual Practices and Procedures of Chief Judge Colleen McMahon, incorporated into the Protective Order in the Consolidated Cases, and the well-established law regarding public filings. As you know, there is a presumption in favor of public access to judicial documents. See, e.g., *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). The fact that information is subject to a confidentiality agreement between litigants is not, by itself, a valid basis to overcome the presumption in favor of public access to judicial documents. See, e.g., *In re Gen. Motors LLC Ignition Switch Litig.*, No. 14-MD-2543 (JMF), 2015 WL 4750774, at \*4 (S.D.N.Y. Aug. 11, 2015).

Exhibits:

June 4, 2020, Mott Haven Radio transmissions:

Def\_CCRB\_00031093\_202004094\_Audio\_202004094\_20200701\_1239\_IA

P.O. Antony Stevens June 4, 2020 BWC video: DEF\_CCRB\_00034063

Citizen video of East 136<sup>th</sup> Street from Mill Brook Houses: CCRB  
202004301\_Video\_202004301\_20201125\_0953\_DM/LoafythePatriarchySlayer.mp4

Citizen video from East 136<sup>th</sup> Street: CCRB  
202004301\_Video\_202004301\_20200630\_1152\_DMI

Citizen video from East 136<sup>th</sup> Street: CCRB  
202004301\_Video\_202004301\_20200825\_1400\_DMI

TARU video at Mott Haven: NYPD\_N\_00001679

FTP 4 Protest Plan: DEF\_E\_PD\_00095629

Bronx Deployment 6/4/2020: DEF\_E\_PD\_00095953

Terence Monahan CCRB testimony:  
Def\_CCRB\_00034802\_202004402\_Interview\_202004402\_20210319\_1514.wav

Aided Reports of Robert Lukach and Ronald Zedalis: DEF\_000346956-959

Since we are prepared to file our motion, please let us know the City's position on filing these exhibits on the open docket by close of business tomorrow.

Yours,

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